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8
9 **BEFORE THE**
10 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**
11

12 HEARING REGARDING PETITION
13 FILED BY THE DEPARTMENT OF
14 WATER RESOURCES AND U.S. BUREAU
15 OF RECLAMATION REQUESTING
16 CHANGES IN WATER RIGHTS FOR THE
17 CALIFORNIA WATERFIX PROJECT

18 CALIFORNIA WATER RESEARCH'S
19 RESPONSE TO THE CALIFORNIA
20 DEPARTMENT OF WATER
21 RESOURCES' MOTION TO QUASH THE
22 SUBPOENA OF TIM WEHLING

23 Deirdre Des Jardins, principal at California Water Research ("California Water
24 Research") hereby requests that the Hearing Officers deny the California Department of Water
25 Resources' motion to quash the subpoena of Tim Wehling, Chief of the Geotechnical and
26 Engineering Services Branch of the Department of Water Resources' Dams and Canals Section.

27 As explained below, cross-examination of Mr. Wehling is relevant to whether Clifton
28 Court Forebay is a reasonable diversion of water under Article X, section 2 of the California
Constitution, to whether the new Waterfix BTO project is in the public interest, and also to
permit terms that the Board might impose as part of any order approving the Change Petition.
For these reasons, cross-examination of Mr. Wehling is necessary and relevant to this hearing,
and California Water Research requests that the Hearing Officers allow Mr. Wehling to be
subpoenaed for cross-examination.

1 existing Clifton Court Forebay, and that the safety of the embankment would be evaluated as part
2 of the design. Pirabarooban also testified that he expected that the foundation solids would be
3 improved. (R.T. August 23, 2016, 31:23-33:6.) The reconstruction of the embankments
4 appeared to make issues of the safety of the existing embankments moot, including both seismic
5 and seepage hazards.

7 **III. CHANGES TO THE WATERFIX PROJECT**

8 The WaterFix project has since been changed to build a new dam, Byron Tract Forebay,
9 instead of expanding Clifton Court Forebay. There are no longer plans for reconstruction of the
10 Clifton Court Forebay embankments or improvement of the foundation under the forebay
11 embankments. With this change in the project, the adequacy of the evaluation by the
12 Department of Water Resources of the seepage reported by Ms. Womack is relevant to key
13 hearing issues, and also steps taken for remediation.

14 Tim Wehling, Chief of the Geotechnical and Engineering Services Branch of the
15 Department of Water Resources' Dams and Canals Section, sent a memo to Ms. Womack
16 evaluating seepage, dated May 26, 2017 (Exhibit DDJ-302.) Based on the forebay embankments
17 consisting of clay soils, Mr. Wehling made an assessment that seepage was not likely to occur.
18 Wehling's memo cites DWR's *Bulletin 200, California State Water Project, Volume III: Storage*
19 *Facilities* (Exhibit DDJ-303.)

20 But as Dr. Williams will testify, Bulletin 200, Volume III documents that there is one to
21 twelve feet of peat soil under the Clifton Court Forebay embankments (Exhibit DDJ-301.) Dr.
22 Clyde Thomas Williams testifies that significant underseepage would be expected with this depth
23 of peat soils in the foundation for the embankments. Tim Wehling is called as a witness to
24 examine why his geotechnical evaluation failed to even mention the issues with the foundation of
25 the Clifton Court Forebay embankments.

1 There is also a significant issue that the failure to do adequate geotechnical evaluation of
2 the foundation for the Clifton Court Forebay embankments is part of a pattern and practice by the
3 Department of Water Resources. The failure by the Department of Water Resources to do
4 adequate geotechnical assessment of the foundation for the Oroville emergency spillway caused
5 a crisis that resulted in the evacuation of 200,000 people, and major distress for downstream
6 inhabitants, as testified to by Nicky Suard in Part 2 of this hearing.

7 In sum, there are significant issues with the Department of Water Resources' evaluation
8 of reports of seepage from Clifton Court Forebay which are now relevant to key hearing issues,
9 given the changes to the WaterFix Project. Examination of the issues requires cross-examination
10 of Mr. Wehling, the Geotechnical engineer who did the evaluation.

11 Dated July 24, 2018

12 Respectfully submitted,

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14 Deirdre Des Jardins
15 Principal, California Water Research
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1 **STATEMENT OF SERVICE**

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3 **CALIFORNIA WATERFIX PETITION HEARING**
4 **Department of Water Resources and U.S. Bureau of Reclamation**
5 **(Petitioners)**

6 I hereby certify that I have this day submitted to the State Water Resources
7 Control Board and caused a true and correct copy of the following document(s):

8 **California Water Research's Response to the California Department Of**
9 **Water Resources' Motion to Quash the Subpoena of Tim Wehling**

10 to be served by Electronic Mail (email) upon the parties listed in the Current Service List
11 for the California Water Fix Petition Hearing, dated July 3, 2018, posted by the State
12 Water Resources Control Board at
13 [http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)
14 [waterfix/service_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)

15 *Note: In the event that any emails to any parties on the Current Service List are*
16 *undeliverable, you must attempt to effectuate service using another method of service, if*
17 *necessary, and submit another statement of service that describes any changes to the*
18 *date and method of service for those parties.*

19 I certify that the foregoing is true and correct and that this document was executed on
20 July 24, 2018.

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Signature:



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